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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/733,319

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Masafumi Nakamura

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12/01/2008

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EXAMINER

HASAN, SYED Y

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

12/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/733,319

**Applicant(s)**

NAKAMURA ET AL.

**Examiner**

SYED Y. HASAN

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 - 4, 7 - 10 and 12 is/are allowed.
- 6) ☒ Claim(s) 5, 6 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/12/2003, 4/27/2006 and 8/30/2007.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-12 dated 10/09/2008 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5, 6 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5, 6 and 11 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing ("[t]he Supreme Court has recognized only two instances in which such a method may qualify as a section 101 process: when the process 'either [1] was tied to a particular apparatus or [2] operated to change materials to a 'different state or thing.'" See PTO Supp. Br. 4 (quoting *Flook*, 437 U.S. at 588 n.9). In *Diehr*, the Supreme Court confirmed that a process claim reciting an algorithm could state statutory subject matter if it: (1) is tied to a machine or (2) creates or involves a composition of matter or manufacture. 12 450 U.S. at 184." *In re Comiskey*, 84 USPQ2d 1670 (Fed. Cir. 2007). The instant claims

neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

***Allowable Subject Matter***

3. Claims 1 – 4, 7 – 10 and 12 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter:

The present invention of claims 1 – 4, 7 – 10 and 12 is directed to a method of reproducing data from a recording medium, wherein each of the data includes reference time information indicating a reference time and packet information, includes the steps of rearranging the data on a time axis such that a time interval between adjacent data is equal to a difference between respective reference times indicated by the reference time information of the adjacent data, and outputting the rearranged data at an output rate equal to or greater than a data rate of the data. The packet information includes at least video packet information into which a compressed video signal data stream is divided, and audio packet information into which a compressed audio signal data stream is divided.

Independent claim 1 identifies the unique distinct feature "rearranging the data on a time axis such that a time interval between adjacent data is equal to the obtained reference time difference; and outputting the rearranged data."

The closest prior art, UEDA et al (US 5508816) discloses (fig 26), interrupting the video data compression process by adapting to the speed of the audio data compression process during video and audio data compression, higher speed in video data compression process can be achieved by automatically establishing synchronization with the audio data compression process. Also in reconstruction, by interrupting video data reconstructing process by adapting to the reconstruction speed of the audio data, higher speed is achieved in the video data reconstruction process with the automatic synchronization with the audio data reconstruction

UEDA et al does not teach nor fairly suggest a method of recording and reproducing digitally compressed data in the form of divided data in and from a recording medium by adding rearranging information which is used for rearranging a time interval between reproduced divided data to each of the divided data in the digitally compressed data, recording the divided data with the added rearranging information in the recording medium, reproducing the divided data with the added rearranging information from the recording medium, and rearranging and outputting the reproduced divided data on a time axis according to the reproduced rearranging information.

Hence claim 1 is allowed.

Since claim 2 depends on claim 1, therefore it is also allowed.

Therefore claims 1 and 2 are allowed over prior art.

Independent claims 3 and 7 identify the unique distinct feature "rearranges the data on a time axis such that a time interval between adjacent data is equal to the

obtained reference time difference, and outputs the rearranged data.”

Hence claims 3 and 7 are allowed.

Since claim 4 depends on claim 3, and claim 8 depends on claim 7, therefore they are also allowed.

Therefore claims 3, 4, 7 and 8 are allowed over prior art.

Independent claim 9 identifies the unique distinct feature “when a difference between respective reference times indicated by the reference time information of the reproduced adjacent data is T1, rearranging the data on a time axis such that a time interval between adjacent data is equal to T1 and outputting the rearranged data.”

Hence claim 9 is allowed.

Therefore claim 9 is allowed over prior art.

Independent claims 10 and 12 identify the unique distinct feature “when a difference between respective reference times indicated by the reference time information of the received adjacent data is T2 (not equal to T1), the outputting apparatus rearranges the data on a time axis such that a time interval between adjacent data is equal to T2 and outputs the rearranged data.”

Hence claims 10 and 12 are allowed.

Therefore claims 10 and 12 are allowed over prior art.

Hence claims 1 – 4, 7 – 10 and 12 are allowed over prior art.

5. Claims 5, 6 and 11 would be allowable if amended to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action as mentioned above.

6. The following is an examiner's statement of reasons for allowance: The present invention is directed to a method of reproducing data from a recording medium, wherein each of the data includes reference time information indicating a reference time and packet information, includes the steps of rearranging the data on a time axis such that a time interval between adjacent data is equal to a difference between respective reference times indicated by the reference time information of the adjacent data, and outputting the rearranged data at an output rate equal to or greater than a data rate of the data. The packet information includes at least video packet information into which a compressed video signal data stream is divided, and audio packet information into which a compressed audio signal data stream is divided.

Independent claim 5 identifies the unique distinct feature "rearranging the data on a time axis such that a time interval between adjacent data is equal to the obtained reference time difference; and outputting the rearranged data."

Since claim 6 depends on claim 5, therefore it is also not allowed.

Therefore claims 5 and 6 are not allowed.

Independent claim 11 identifies the unique distinct feature "when a difference between respective reference times indicated by the reference time information of the reproduced adjacent data is T1, rearranging the data on a time axis such that a time interval between adjacent data is equal to T1 and outputting the rearranged data."



Hence claim 11 is not allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Y. H.  
11/20/2008

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621